IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7571 of 2005

Between:

1 Union of India, rep by its General Manger, South Central Railway, Secunderabad
2 South Central Railway Catering Unit, rep., by Senior Divisional Commercial Manager, Vijayawada

.. PETITIONERS

AND

1 Commercial Tax Officer, Seetharamapuram, Vijayawada
2 State Bank of India, rep by Assistant General Manager, B.R.P. Road, Vijayawada-1

.RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ or any other appropriate Writ or order or direction more particularly in the nature of the Writ of Mandamus, declaring the notice dt 29-03-2005 issued by the Commercial tax Officer, Seetharampuram Circle, Vijayawada as illegal, void and inoperative and set a side the same.

Counsel for the Petitioners: MR.C.V.VINITHA REDDY

Counsel for the Respondent No.1: MR.K.RAJI REDDY, SPECIAL STANDING COUNSEL FOR COMMERCIAL TAX

Counsel for the Respondent No.2: SMT. CH.LAKSHMI KUMARI

The Court made the following:

ORDER: (Per BRSR,J)

The Union of India represented by its General Manager, South Central Railway, Secunderabad and another invoke the jurisdiction of this Court under Article 226 of the Constitution of India challenging the notice, dated 29.03.2005, issued by the Commercial Tax Officer, Seetharamapuram Circle, Vijayawada, on various grounds.

Having heard the learned Senior Counsel appearing on behalf of the Railways and the learned Standing Counsel for the Department and also in view of our orders, dated 11-04-2005, in W.P No. 7895 of 2005, we consider it appropriate to dispose of this writ petition in the following manner:

It is stated by the learned Senior Counsel, about which there is no dispute, that for the assessment year 2001-2002, the petitioners herein had already preferred an appeal before the first appellate authority along with an application for grant of stay and the same is pending consideration. In such view of the matter, no coercive steps can be taken by the Department for realization of Rs.80,31,143/- for the assessment year 2001-2002 until disposal of the stay application filed by the petitioners.

That so far as the remaining amount is concerned, the learned Senior Counsel submits that a sum of Rs.20,43,226/- is liable to be paid towards the tax, even according to the petitioner-Railways, and the same shall be paid immediately. It is submitted that certain remittances that were already made by the petitioners-Railways have not been properly credited to and if the same are properly given

credit, the amount, if at all, payable by the petitioner-Railways would be far less than what is demanded vide the impugned notice.

It is not possible for us to express any opinion as to whether any such remittances have been made and not taken into consideration by the Department. In the circumstances, we direct the respondents to receive the representation to be made by the petitioners-Railways within two weeks from today along with a Demand Draft for a sum of Rs.20,43,226/- and the said representation to contain the details of the remittances, if any, made, which shall be verified by the respondents and if any such remittances have been made and not taken into account the same shall have to be taken into account in order to enable the respondents to proceed further in the matter for realization of the remaining amounts.

The writ petition is accordingly disposed of.

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B. SUDERSHAN REDDY, J.

Date: 13/04/2005.

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C.V. RAMULU, J.

GS/KS

To

1. The Commercial Tax Officer, Seetharamapuram, Vijayawada

2. The Assistant General Manager, State Bank of India
   B.R.P. Road, Vijayawada-1

3. The General Manager, South Central Railway, Union of India,
   Secunderabad.

4. The Senior Divisional Commercial Manager, South Central Railway,
   Catering Unit, Vijayawada.

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